

REMARKS

The foregoing amendments and these remarks are responsive to the final Office Action of April 16, 2007. Claims 1-3, 12, 15, 26, and 31 have been amended. Upon entry of this amendment, claims 1-6 and 9-37 will remain pending. So as to expedite consideration of the amendment and allowance of the claims, this amendment is being submitted with a Request for Continued Examination (RCE).

Claims 1 – 6 and 9 – 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Johnson et al.* (U.S. 6,270,093), in view *McCue et al.* (U.S. 6,513,817). Claims 12 – 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *McCue et al.* and *Struzer* (U.S. 5,704,527). Applicants do not admit to the propriety of any of the rejections noted in the Office Action.

Claim 1 is submitted as patentable over the prior art of record, including *Johnson* and *McCue, et al.* in that none of the references, alone or in combination, show or suggest a shopping cart having the recited features of amended claim 1. For example, amended claim 1 recites a shopping cart comprising a molded body defining a basket portion and a seat portion, a basket at least partially disposed within the basket portion, and a panel coupled to the molded body to at least partially define a front wall of the seat portion, the panel being positioned between the seat portion and the basket. None of the references of record, either alone or in combination, show or suggest a shopping cart having at least these features.

Both *Johnson, et al.* and *McCue, et al.* disclose very specific shopping cart constructions designed for very different ways/uses of carrying children therein. *Johnson* discloses a cart 2 that is necessarily designed to be nestable with other carts and has a front basket portion 4 and a rear

seat portion 6. The basket portion 4 comprises a basket 8 supported by chassis members 18, 20, 22 that are connected to a seat module chassis 32. The seat body 30 of seat portion 6 includes two child seats 40, 42 that face inwardly toward each other, with the seats 40, 42 having backrests 44 and 46 on the opposite lateral sides of the cart. The seat portion 6, however, also includes an open rear entrance, shown at 52, that is required to both enable a child to enter the seat portion from the rear of the cart 2 adjacent the handle portion 23 of the basket, and to enable nesting or stacking of another cart therein.

In sharp contrast to both *Johnson, et al.* and the claimed invention, *McCue, et al.* discloses a shopping cart 10 with a main basket 12 located at the rear of the cart behind and above a vehicle resembling a truck body 22 that is designed "to provide a relatively easier shopping experience for the guardian and a more enjoyable shopping experience for the child" (See Abstract), apparently by placing the child in the cab of the truck in front of the basket. The body 22, which "is not designed to operate as a vehicle separate from the cart 10," is integral with the cart frame and includes a seat 24 positioned between a back wall 25 and two steering wheels 26, and a roof 23 designed to protect the passengers from materials/articles being loaded in the basket (see Col. 4, ll. 13 – 39; Col. 5, ll. 57 – 60).

Accordingly, it seems clear that the designs/constructions of the carts of *Johnson, et al.* and *McCue, et al.*, and the specific functions designed to be achieved by such constructions are at odds or cross purposes. Thus, to try to combine their structures or features is not practical and would destroy the features and expressed functionality of one or both carts. The combination of *Johnson, et al.* and *McCue, et al.* further fails to show or suggest all the elements of claim 1. For example, claim 1 recites a shopping cart having a molded body defining a basket portion and a

seat portion and a basket at least partially disposed within the basket portion and a panel coupled to the molded body to at least partially define a front wall of the seat portion, the panel being positioned between the seat portion and the basket. *Johnson, et al.* discloses a seat portion 6 at the rear of the cart that has the seats specifically arranged in a laterally facing alignment, with an open front and an open rear portion to enable nesting of carts therein. *McCue, et al.*, however, specifically discloses that the basket 12 is at the rear of the cart 10, behind a covered front end seat portion that "serves to protect the child passengers from items." Therefore, the combination of *Johnson, et al.* and *McCue, et al.* does not show or suggest all the features of amended claim 1.

Independent claims 12, 23, and 31, as pending, are believed to define over the cited combination of *McCue, et al.* and *Struzer*. *McCue, et al.* does not show or suggest a shopping cart having the features recited by these claims, while *Struzer* likewise is completely void of any teaching or suggestion related to such features. In fact, *Struzer* simply is directed to a box that is attachable by straps to the arms of child's stroller to provide a carrier in which a device, such as an entertainment device, can be placed, although it would not be viewable by the child in the stroller. Even if this box were applied to *McCue*, there is no indication of how the box should or would be mounted therein to enable use by a passenger, and it further appears that such a box or carrier wouldn't fit readily within the "cab," of the vehicle in view of its size and mounting. Accordingly, independent claims 12, 23, and 31 also are patentable over this combination of art.

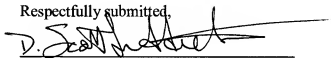
In view of the foregoing, it is respectfully submitted that each of the independent claims, claims 1, 12, 23, and 31, is allowable. It is further submitted that the dependent claims are

allowable because of their respective dependence from an allowable independent claim, and because the dependent claims further patentably distinguish these claims.

Accordingly, it is believed that the present application is in condition for immediate allowance, and such action is solicited. Should the Examiner have any questions regarding the foregoing response, he is invited and urged to telephone the undersigned attorney.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Scott Sudderth", is written over a horizontal line.

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